IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

WEDNESDAY, THE 14TH MARCH 2007 / 23RD PHALGUNA 1928

WP(C).No. 8433 of 2007(D)

PETITIONER:

GANESAN V.P., S/O. T.GOPALAN NAMBIAR,
AGED 30 YEARS, RESIDING AT 'THILAKOM',
KANDAKKAI, MAYYIL, KANNUR-670 602.

BY ADV. SMT.REKHA VASUDEVAN
SRI.JAMES ABRAHAM (VILAYAKATTU)

RESPONDENTS:

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1. STATE OF KERALA, REP. BY
SECRETARY TO GOVT., TAXES DEPT., SECRETARIAT,
TRIVANDRUM.

2. THE COMMISSIONER OF EXCISE,
COMMISSIONERATE OF EXCISE, THIRUVANANTHAPURAM.

3. JOINT EXCISE COMMISSIONER,
COMMISSIONERATE OF EXCISE, THIRUVANANTHAPURAM.

4. KERALA PUBLIC SERVICE COMMISSION,
REP. BY ITS SECRETARY, PSC OFFICE,
PATTOM P.O., THIRUVANANTHAPURAM.

R1 TO R3 BY GOVT. PLEADER MR. BIJOY CHANDRAN.
R4 BY S.C. MR. P.C. SASIDHARAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J.

WP(C)No. 8433 OF 2007

Dated this the 13th March, 2007.

JUDGMENT

The petitioner is a candidate included in the ranked list published by the Kerala Public Service Commission for appointment to the post of Excise Inspector. It is contended that there is likelihood of one more vacancy arising in case the person who got the benefit of Ext.P3 judgment is promoted retrospectively as Circle Inspector of Excise. It is seen that SLP has been filed before the Hon'ble Supreme Court challenging Ext.P3.

2. What will be the outcome of the litigation cannot be predicted, as on today. It may be that one vacancy may arise if Ext.P3 judgment is affirmed by the Hon'ble Supreme Court and the appellant in Ext.P3 is promoted retrospectively. It will only be a notional vacancy and not actual vacancy. Those are all speculations. This Court need not issue orders based on speculative exercises. As matters now stand, it is clear that there is no vacancy.

3. The issue raised, in my view, is hypothetical and this Court will not be justified in assuming that there will arise a vacancy in the post of Excise Inspector in the event of the appellant in Ext.P3 judgment getting retrospective promotion to a higher post. I am not

therefore satisfied that there is one more vacancy to be reported as contended by the petitioner, over and above the vacancies already reported based on actual fact situation.

4. In similar matters, I had occasion to go through the statements filed by the respondents. The cadre strength in the post of Excise Inspector, the actual number of vacancies to be earmarked for direct recruits and the actual number of vacancies that existed etc. have been furnished in that statement, filed on behalf of the respondents. Having regard to all relevant considerations, I am of the view that no more vacancy remains to be reported to the P.S.C. If any of the candidates who has been advised against the vacancies already reported has not joined duty, I have already directed that the NJD vacancies that may arise consequent on that, shall be reported. No other directions can be issued in this writ petition. It is therefore dismissed.

K.K.DENESAN
Judge

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